

Remarks

Status of application

Claims 1-63 were examined and stand rejected in view of prior art. In addition, claims 2-20, 22, 24-42 and 63 stand objected to and/or rejected for technical reasons. The claims have been amended to address non-art objections and rejections made by the Examiner. Entry of this amendment is requested in order to reduce the issues for appeal.

General

A. Objections to Claims

The Examiner objected to claims 2-20 on the basis that these claims should read "The improved method" rather than "The method" for purposes of providing such claims with proper explicit antecedent basis. Applicant has amended claims 2-20 (and also claim 21) as suggested by the Examiner, thereby overcoming the objection.

The Examiner also objected to claims 22 and 63 as containing a typographical error. Applicant has amended these claims in the manner suggested by the Examiner, thereby overcoming the objection.

The Examiner objected to claims 24-42 on the basis that these claims should read "The improved system" rather than "The system" for purposes of providing such claims with proper explicit antecedent basis. Applicant has amended 24-42 as suggested by the Examiner, thereby overcoming the objection.

B. Section 112, second paragraph rejection

Claim 46 stands rejected under 35 U.S.C. 112, second paragraph as being indefinite as lacking sufficient antecedent basis. Applicant has amended claim 46 to replace "the programming language" with "the object oriented programming language" so as to provide explicit antecedent basis, thereby overcoming this rejection.

C. Section 101 rejection

Claims 23-42 stand rejected under 35 U.S.C. 101 on the basis of non-statutory subject matter on the basis that Applicant's claimed system constitutes computer programs representing computer listings *per se* and hence are non-statutory. Although

Applicant respectfully believes that the Examiner has incorrectly construed Applicant's specification and claims as stating that the elements of Applicant's invention can only be implemented in software. Applicant has amended claim 23 by adding claim limitations of a computer system having a processor and memory. These claim limitations find support in Applicant's specification which expressly state that elements of Applicant's invention may be implemented in hardware, software or firmware (or combinations thereof). This is expressly stated, for example, at paragraph [0034] of Applicant's specification as follows: "...the corresponding apparatus element may be configured in hardware, software, firmware or combinations thereof" (Applicant's specification, paragraph [0034], emphasis added). Applicant's specification also describes in detail a computer hardware and software environment in which Applicant's invention may be implemented (Applicant's specification, paragraphs [0036]-[0046]). As Applicant's claim defines a useful machine or item of manufacture in terms of a hardware or hardware and software combination, Applicant respectfully believes that it defines a statutory product and overcomes the rejection of claims 23-42 under Section 101.

Conclusion

Applicant respectfully requests the Examiner to enter the above amendments to the claims to address the Examiner's objections and rejections to claims for technical (i.e., non-art) reasons, so as to narrow the issues for appeal in this case.

If for any reason the Examiner feels that a telephone conference would in any way expedite prosecution of the subject application, the Examiner is invited to telephone the undersigned at 925 465-0361.

Respectfully submitted,

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